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APPLICATION NO.	FILING D	ATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,439	07/26/20	006	Todd A. Eckert	3161-309	5580
30565	7590	0/02/2006		EXAMINER	
	O, EMHARDT	SINGH, KAVEL			
	DLIS, IN 4620			ART UNIT	PAPER NUMBER
			·	3651	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)				
Office Action Summary		10/549,439	ECKERT ET AL.				
Office Action	Summary	Examiner	Art Unit				
		Kavel P. Singh	3651				
The MAILING DATE Period for Reply	of this communication app	ears on the cover sheet with the c	orrespondence ad	ldress			
WHICHEVER IS LONGER - Extensions of time may be availabled after SIX (6) MONTHS from the may lead to the may be availabled after SIX (6) MONTHS from the may lead to see the may be available at the	R, FROM THE MAILING DA e under the provisions of 37 CFR 1.13 siling date of this communication. bove, the maximum statutory period we tended period for reply will, by statute, er than three months after the mailing	(IS SET TO EXPIRE 1 MONTH() ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim fill apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONED date of this communication, even if timely filed,	. ely filed the mailing date of this c O (35 U.S.C. § 133).				
Status							
1) Responsive to comn	nunication(s) filed on 26 Ju	ilv 2006.					
2a) This action is FINAL	· · ·	action is non-final.					
<u> </u>	<i>,</i> —	nce except for formal matters, pro	secution as to the	e merits is			
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims	·						
4)☐ Claim(s) is/ar	4) Claim(s) is/are pending in the application.						
, —	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/ar	5) Claim(s) is/are allowed.						
6) Claim(s) is/ar	e rejected.						
7) Claim(s) is/ar	e objected to.						
8)⊠ Claim(s) <u>1-55</u> are su	bject to restriction and/or e	election requirement.					
Application Papers							
9) The specification is o	bjected to by the Examine	r.					
· ·	10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 11	9						
12) ☐ Acknowledgment is n	nade of a claim for foreign	priority under 35 U.S.C. § 119(a)	-(d) or (f).				
a) ☐ All b) ☐ Some *	c) None of:						
1. Certified copie	es of the priority documents	s have been received.					
2. Certified copie	es of the priority documents	s have been received in Application	on No				
3. Copies of the	certified copies of the prior	ity documents have been receive	ed in this National	Stage			
application fro	m the International Bureau	(PCT Rule 17.2(a)).					
* See the attached deta	illed Office action for a list	of the certified copies not receive	d.				
Attachment(s)		_					
1) Notice of References Cited (PT	O-892)	4) Interview Summary Paper No(s)/Mail Da					
2) Notice of Draftsperson's Patent3) Information Disclosure Stateme		5) Notice of Informal Pa					
Paper No(s)/Mail Date	• • • • • • • • • • • • • • • • • • • •	6)					

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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-21, drawn to a method and conveyor with three groups of roller and drive mechanisms, classified in class 198, subclass 459.8.
- II. Claims 22-40, drawn to a two roller conveyor sections each driven by chain drive assembly, classified in class 198, subclass 781.11.
- III. Claims 41-55, drawn to a method and conveyor system having a conveyor section with slippable rollers and means for stopping products on a second section, classified in class 198, subclass 781.01.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed in claim 1 does not require the particulars of the subcombination as claimed in claim 22. The subcombination has separate utility such as the dual conveyor section utilizes individual drive chain assembly to rotate the rollers in a nonaccumulating / singulating conveyor.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does

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not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed in claim 1 does not require the particulars of the subcombination as claimed in claim 41. The subcombination has separate utility such as an assembly containing two conveyor sections with slippable rollers with a wrapping station.

Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed in claim 22 does not require the particulars of the subcombination as claimed in claims 41 and 46. The subcombination has separate utility such as an assembly containing two conveyor sections with slippable rollers with a wrapping station where as in claim 22 a dual conveyor section utilizes individual drive chain assembly to rotate the rollers.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such

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claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

A telephone call was made to David C Emhardt on 9/25/2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

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because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

GENE O. CHAWFORD SUPERVISORY PATENT EXAMINER